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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/563,190	01/03/2006	Otto Baumann	3540	6478
7590 Striker Striker & Stenby 103 East Neck Road Huntington, NY 11743				
EXAMINER GATES, ERIC ANDREW				
ART UNIT		PAPER NUMBER		
3726				
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10/07/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/563,190

Applicant(s)

BAUMANN ET AL.

Examiner

ERIC A. GATES

Art Unit

3726

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 May 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-26 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 26 is/are allowed.
6) ☒ Claim(s) 13-25 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 03 January 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

1. This office action is in response to Applicant's amendment filed 8 May 2008.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the tool holder enclosing the drive tube as claimed in claim 23 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 13-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Wohlwend (U.S. Patent 4,133,394).

5. Regarding claim 13, Wohlwend discloses a fitting device for a removable tool holder (56) for receiving insertion tools of a machine tool (10) comprising: a protective sleeve (98) arranged around the tool holder (56) that forms a releasable sliding fit (92) with a drive tube (20); and at least one locking element (72) securing the tool holder (56) so that for removing the tool holder (56) from the fitting device the protective sleeve (98) of the tool holder (56) is removed, then the at least one locking element (72) is completely removed, and then the tool holder (56) is separated from the fitting device. The order of disassembly of the fitting device is being treated as an intended use of the fitting device; however, the device of Wohlwend is capable of being removed as claimed. When the locking elements (72) are partially removed such that the ends still remain in one of the apertures (78), the protective sleeve (98) may be removed and

then the locking element completely removed, and finally the tool holder (56) may be removed.

6. Regarding claim 14, Wohlwend discloses further comprising at least one cap (62) closing the protective sleeve (98) and so that for removing the tool holder (56) from the fitting device the at least one cap (62) is removed before removing the protective sleeve (98).

7. Regarding claim 15, Wohlwend discloses further comprising at least one first ring (outer circumference of 98) located behind the at least one cap (62) and so that for removing the tool holder (56) from the fitting device the at least one first ring (outer circumference of 98) is removed after removing the at least one cap (62).

8. Regarding claim 16, Wohlwend discloses further comprising at least one disk (94) located behind the at least one first ring (outer circumference of 98) so that for removing the tool holder (56) from the fitting device the at least one disk (94) is removed after removing the at least one first ring (outer circumference of 98).

9. Regarding claim 17, Wohlwend discloses further comprising at least one second ring (82) located behind the at least one disk (94) so that for removing the tool holder (56) from the fitting device the at least one second ring (82) is removed after removing the at least one disk (94).

10. Regarding claim 18, Wohlwend discloses wherein the tool holder (56) is non-rotatably connectable with the drive tube (20).

11. Regarding claim 19, Wohlwend discloses wherein the tool holder (56) is fixable axially relative to the drive tube (20).

12. Regarding claim 20, Wohlwend discloses wherein the tool holder (56) is connectable with the drive tube (20) around its outer diameter (90).
13. Regarding claim 21, Wohlwend discloses wherein the tool holder (56) is securable axially in the drive tube (20) with the at least one locking element (72) and wherein the at least one locking element (72) is accessible from an outer side of the drive tube (20).
14. Regarding claim 22, Wohlwend discloses wherein the at least one locking element (72) is captively contained (using mounting clips 74) on an outer diameter of the drive tube (20).
15. Regarding claim 23, Wohlwend discloses wherein the tool holder (56) encloses the drive tube (20) (portion 94 of the tool holder encloses the bottom end of the drive tube).
16. Regarding claim 24, Wohlwend discloses wherein the tool holder (56) has a guide diameter locatable inside a transmission (20) of the machine tool (10) such that it is essentially protected from dust.
17. Regarding claim 25, Wohlwend discloses wherein the at least one locking element (72) is a cylindrical pin.

Allowable Subject Matter

18. Claim 26 is allowed.
19. The following is an examiner's statement of reasons for allowance:

The closest prior art of record is U.S. Patent 4,133,394 to Wohlwend as applied to the claims in the rejections above. Suffice it to say, the patent to Wohlwend at least does not disclose "four bore holes are located on a circumference of the tool holder, the four locking elements are cylindrical pins insertable into the bore holes of drive tube and the bore holes of tool holder securing the tool holder, and the four bore holes on a circumference of the tool holder are covered by the internal ring of the protective sleeve" as claimed in independent claim 26, and as such does not anticipate the instant invention as disclosed in independent claim 26.

Furthermore, there is no combinable teaching in the prior art of record that would reasonably motivate one having ordinary skill in the art to so modify the teachings of Wohlwend, and thus, for at least the foregoing reasoning, the prior art of record does not render obvious the present invention as set forth in independent claim 26.

Response to Arguments

20. Applicant's arguments with respect to claims 13-25 have been considered but are moot in view of the new ground(s) of rejection.
21. For the reasons as set forth above, the rejections are maintained.

Conclusion

22. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERIC A. GATES whose telephone number is (571)272-5498. The examiner can normally be reached on Mon-Thurs 8:45 - 6:15.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bryant can be reached on (571) 272-4526. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/E. A. G./
Examiner, Art Unit 3726
1 October 2008

/DAVID P. BRYANT/
Supervisory Patent Examiner, Art Unit 3726